

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Medicaid Services

3 Division of Medical Management

4 (Amendment)

5 907 KAR 1:715. School-based health services.

6 RELATES TO: KRS 156.070, 205.520, 605.115, 314.470, 20 USC 33, 34 CFR
7 300.320, 300.321, 300.324,~~[20 U.S.C. 33]~~

8 STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560

9 NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family
10 Services, Department for Medicaid Services has responsibility to administer the Medi-
11 caid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to
12 comply with any requirement that may be imposed or opportunity presented by federal
13 law for the provision of Medicaid services to Kentucky's indigent citizenry. This adminis-
14 trative regulation establishes the provisions relating to school-based health services
15 (SBHS) for which payment shall be made by the Medicaid program on behalf of Medi-
16 caid recipients who are eligible for school-based health services under 20 USC Chapter
17 33,~~[the Individuals with Disabilities Education Act (20 U.S.C. 33).]~~

18 Section 1. Definitions. (1) "Admissions and release committee" or "ARC" means a
19 group of individuals which meets the:

20 (a) ARC requirements established in 707 KAR 1:320; and

21 (b) IEP team requirements established in 34 CFR 300.321.

1 (2) "Advanced registered nurse practitioner" is defined by KRS 314.011(7).

2 ~~(3)[Required by 707 KAR 1:320 and 34 C.F.R. 300.344, who are responsible for de-~~
3 ~~veloping, reviewing, and, as~~
4 ~~necessary, revising the individualized education program for a child with a disability.~~

5 ~~(2)] "Assistive technology device" means an item, piece of equipment, or product~~
6 ~~system that is:~~

7 (a) Used to increase, maintain, or improve the functional capabilities of a child with a
8 disability; and

9 (b) Medically necessary to implement the health services in the child's individualized
10 education program.

11 (4) "Certified psychologist" means an individual who holds the title of certified psy-
12 chologist pursuant to KRS 319.056.

13 (5) "Certified psychologist with autonomous functioning" means an individual who
14 holds the title of certified psychologist with autonomous functioning pursuant to KRS
15 319.056.

16 (6) "Certified social worker" means an individual with a certified social worker license
17 pursuant to KRS 335.080.

18 ~~(7)[(3) "Collateral services" means instruction and consultation to a child, the child's~~
19 ~~family, teacher, or another service provider which is necessary to communicate and en-~~
20 ~~hance the effectiveness of the child's treatment and management programs.~~

21 ~~(4)] "Department of Education" means the Commonwealth of Kentucky, Department~~
22 ~~of Education.~~

23 (8) "IDEA" means the Individuals with Disabilities Education Act codified as 20 USC

1 Chapter 33.

2 (9) "IEP team" is defined by 34 CFR 300.321.

3 (10)[(5)] "IDEA" means the Individuals with Disabilities Education Act , 20 U.S.C.

4 Chapter 33.

5 (6)] "Incidental interpreter services" means ~~the~~[those] interpreter services that are
6 necessary to allow a[the] child to benefit from other covered school-based health ser-
7 vices.

8 (11)[(7)] "Individualized Education Program" or "IEP" is defined by 34 CFR 300.320.

9 (12) "Licensed clinical social worker" means an individual possessing a current li-
10 censed clinical social worker license pursuant to KRS 335.100.

11 (13) "Licensed practical nurse" is defined by KRS 314.011(9).

12 (14) "Licensed professional clinical counselor" is defined by KRS 335.500(3).

13 (15) "Licensed professional clinical counselor associate" is defined by KRS
14 335.500(4).

15 (16) "Licensed psychological associate" means an individual holding the title of li-
16 censed psychological associate pursuant to KRS 319.064.

17 (17) "Licensed psychological practitioner" means an individual who meets the li-
18 censed psychological practitioner requirements established in KRS 319.053.

19 (18) "Licensed psychologist" means a psychologist who holds a licensed psycholo-
20 gist license pursuant to KRS 319.010(5).

21 (19) "Licensed social worker" means an individual possessing a current licensed so-
22 cial worker license pursuant to KRS 335.090.

23 (20) "Occupational therapist" is defined by KRS 319A.030(3).

1 (21) "Occupational therapy assistant" is defined by KRS 319A.030(4).

2 (22) "Physical therapist" is defined by KRS 327.010(2).

3 (23) "Physical therapy assistant" means an individual:

4 (a) With a current license from the Kentucky Board of Physical Therapy; and

5 (b) Working under the supervision of a physical therapist.

6 (24) "Psychologist" is defined by KRS 319.010(8).

7 (25) "Recipient" is defined by KRS 205.8451(9).

8 (26) "Registered nurse" is defined by KRS 314.011(5).

9 (27) "Respiratory care practitioner" is defined by KRS 314A.010(3).

10 ~~(28) [means a written plan for a child with a disability that is developed, reviewed and~~
11 ~~revised in accordance with 707 KAR 1:320.~~

12 ~~(8) "Recipient" means a Medicaid-eligible child under the age of twenty-one (21), in-~~
13 ~~cluding the entire month in which the child becomes twenty-one (21).~~

14 ~~(9)] "School-based health services" or "SBHS" means medically-necessary health~~
15 ~~services;~~

16 (a) Provided for in 907 KAR 1:034; and

17 (b)[and as] Specified in an individualized education program for a child determined to
18 be eligible under the provisions of the Individuals with Disabilities Education Act, 20
19 U.S.C. Chapter 33, and 707 KAR Chapter 1.

20 (29) "SBHS recipient" means a recipient who:

21 (a) Is under the age of twenty-one (21) years; and

22 (b) Receives school-based health services.

23 (30)[(40)] "Special transportation" means a special arrangement, special equipment,

or a special vehicle which is:

(a) Appropriate for the child's disability; and

(b) The need for which is described in the child's individualized education plan.

Section 2. Provider Requirements. (1) A school district that requests to participate as a school-based health care provider shall not be qualified to provide school-based health services:

(a) Until it has enrolled as a Medicaid provider pursuant to 907 KAR 1:672;

(b) Until it has been certified by the Department of Education to provide school-based health services; and

(c) Unless it is currently compliant with the Medicaid provider participation requirements established in 907 KAR 1:671.~~[be certified by the Department of Education.]~~

(2) The Department of Education shall grant certification to a district that agrees to:

(a) Provide services;

1. As required by 20 USC Chapter 33; and

2.~~[as required by IDEA, 20 U.S.C. 33, and]~~ As specified in an approved individualized education program developed by an ARC that includes a multidisciplinary team of professionals acting within their scope of practice;

(b) Comply with the service provision requirements mandated by 20 USC Chapter 33 and in accordance with 707 KAR 1:320;~~[requirements for provision of services required by IDEA as outlined in 707 KAR 1:320;]~~

(c) Employ or contract with health care professionals who meet the qualifications specified in Section 4 of this administrative regulation;

(d) Provide the Department of Education with a proposed quality assurance outline;

1 (e) Maintain and submit to the Department of Education all required records and re-
2 ports to ensure compliance with 20 USC Chapter 33;~~[20 U.S.C. 33;]~~ and

3 (f) Provide the Department of Education with a list of school-based health services
4 that the school district provides. This list shall contain the following information for em-
5 ployees and contractors providing the services:

- 6 1. Name;
- 7 2. Credentials;
- 8 3. Hourly salary;
- 9 4. Hourly fringe benefit costs; and
- 10 5. Hourly contract amounts.

11 (3) The Department for Medicaid services shall grant Medicaid enrollment to a pro-
12 vider who:

13 (a) Meets the criteria established in subsections (1) and (2) of this section;

14 (b) Works within his or her scope of practice as established in Kentucky law; and

15 (c)~~[in subsection (2) of this section; and~~

16 ~~(b)]~~ Is recommended by the Department of Education for certification and enrollment
17 in the Kentucky Medicaid Program as a provider of school-based health services.

18 (4) A Medicaid school-based health services provider shall:

19 (a) Submit to an annual review by the Department of Education to ensure
20 compliance with the standards for continued participation as a Medicaid provider;

21 (b) Have an on-site survey completed by the Department of Education as necessary
22 to determine compliance with the Medicaid Program;

23 (c) Take action as specified by the Department of Education to correct a deficiency if

found to be in noncompliance with the provision of services outlined in 707 KAR 1:320 or this administrative regulation;

(d) Agree to implement a quality assurance program approved by the Department of Education for the provision of Medicaid-covered services within one (1) year from the date the Department of Education recommends enrollment to the Medicaid Program;

(e) Maintain a current list of school-based health services that the school district provides. The list shall contain the information listed in subsection (2)(f) of this section for an employee or contractor providing the services; and

(f) Maintain records on each SBHS recipient~~[Medicaid-eligible recipient]~~ who receives services reimbursed by Medicaid. ~~The~~These records shall:

1. Identify the child, services performed, and quantity or units of service;
2. Be signed and dated by the professional who provided or supervised the service;
3. Be legible with statements written in an objective manner;
4. Indicate progress being made, any change in treatment, and response to the treatment; and
5. Be retained~~[maintained]~~ for a minimum of five (5) years plus any additional time required by law; and

(g) Comply with 907 KAR 1:671 and 907 KAR 1:672.

Section 3. Covered Services. (1) A school-based health service that is included in an ~~[authorized]~~ IEP authorized by an IEP team or ARC and provided in accordance with this administrative regulation shall:

(a) Be considered medically necessary; and

(b)~~[and shall]~~ Not be subject to additional Medicaid prior-authorization requirements.

(2) The following services shall be covered if provided to address a medical or mental disability and to assist an~~assist the~~ individual in benefiting from special education programming which is included, authorized, and provided in accordance with the individualized education program:

(a) Nursing;

(b) Audiology;

(c) Speech and language;

(d) Occupational therapy;

(e) Physical therapy;

(f) Mental health;

(g) Incidental interpreter services provided in conjunction with another covered service;

(h) Orientation and mobility services;

(i) Respiratory therapy;

(j) Assistive technology devices and appropriate related evaluations if the devices purchased by the Medicaid program become the property of the SBHS recipient; and

(k) Special transportation with the following limitations:

1. A special transportation service shall be limited to transporting an SBHS recipient~~a recipient~~ to receive a Medicaid-covered service at:

a. A site other than the school building in which the child is enrolled for general education purposes;

b. The child's home if the child is a home-bound student and receives general education services at home; or

c. The school building where the child receives the Medicaid-covered service. Special transportation to the school building from the child's home or other site and return special transportation from the school building to the child's home or other site shall be covered for the day the Medicaid-covered service is provided at the school building;

2. A special transportation service shall be provided using a type of vehicle which:

a. Meets the specifications established by KRS 156.153, 702 KAR 5:060, and 702 KAR 5:130; and

b. Is appropriate for the child's disability as determined by the ARC in accordance with 702 KAR 5:100; and

3. A special transportation service provided by a member of an SBHS recipient's household to the SBHS recipient shall not be covered unless the SBHS recipient's household member is an employee of the school district.~~[shall not be covered for special transportation provided by a member of the recipient's household if that person is not an employee of the school district.]~~

(3) A covered school-based health service:

(a) Shall not be limited by site of service;

(b) Shall be provided in:

1. A group of no more than six (6); or

2. In a one (1)-on-one (1)~~[one-on-one]~~ situation; and

(c) May include:

1. An assessment or evaluation if the assessment or evaluation is stated in the SBHS recipient's IEP, except as allowed in subsection (4) of this section; or

2. A treatment component if the treatment component is stated in the SBHS reci-

1 patient's IEP.~~[assessment, evaluation, treatment, and collateral components]~~.

2 (4) An assessment or evaluation conducted prior to the establishment of an individu-
3 alized education program shall be covered if the individualized education program is
4 subsequently developed and implemented as a result of the assessment or evaluation.

5 Section 4. Staffing Requirements. School-based health services shall be reimbursa-
6 ble if provided by a professional acting within his or her scope of practice as defined by
7 state law and as provided in this section.

8 (1) A nursing service shall be provided by:

9 (a) An advanced registered nurse practitioner with a current license from the Ken-
10 tucky Board of Nursing;

11 (b) A registered nurse;

12 1. With a current license from the Kentucky Board of Nursing; or

13 2. Authorized to provide a nursing service pursuant to KRS 314.470;

14 (c) A licensed practical nurse;

15 1. With a current license issued by the Kentucky Board of Nursing, under appropriate
16 supervision and delegated authority; or

17 2. Authorized to provide a nursing service pursuant to KRS 314.470; or

18 (d) A health aide if:

19 1. The aide is under the supervision of a specific registered nurse or advanced regis-
20 tered nurse practitioner;

21 2. The supervising registered nurse or advanced registered nurse practitioner has
22 trained the aide for the specific nursing service for the specific SBHS recipient; and

23 3. The supervising registered nurse or advanced registered nurse practitioner has

1 verified in writing that the aide has appropriate training and skills to perform the specific
2 service in a safe, effective manner.

3 (2) Audiology services shall be provided by an audiologist with a current license from
4 the Kentucky Board of Speech-Language Pathology and Audiology.

5 (3) Speech and language services shall be provided by:

6 (a) A speech-language pathologist who:~~[with:]~~

7 1. Has a current license from the Kentucky Board of Speech-Language Pathology
8 and Audiology; ~~[or]~~

9 2. Has a master's level profession professional ~~[a masters level]~~ certification issued
10 by the Kentucky Education Professional Standards Board after January 1, 2001;

11 3. Has a certificate of clinical competence issued by the American Speech-
12 Language-Hearing Association; or

13 4. Is working under the supervision of an individual who:

14 a. Has a current license from the Kentucky Board of Speech-Language Pathology
15 and Audiology;

16 b. Has a master's level professional certification issued by the Kentucky Education
17 Professional Standards Board after January 1, 2001; or

18 c. Has a certificate of clinical competence issued by the American Speech-
19 Language-Hearing Association; or

20 (b) A speech-language pathology assistant who:

21 1. Has:

22 a. A current license from the Kentucky Board of Speech-Language Pathology and
23 Audiology; or

b. A baccalaureate-level certification issued by the Kentucky Educational Professional Standards Board; and

2. Is under the supervision of a licensed or certified masters-level speech-language pathologist in accordance with KRS 334A.033, 334A.080 and 161.053.

(4) Occupational therapy services shall be provided by:

(a) An occupational therapist;

(b) An occupational therapy assistant; ~~with a current license from the Kentucky Board of Licensure for Occupational Therapy;~~

~~(b) An occupational therapy assistant who is:~~

~~1. Licensed by the Kentucky Board of Licensure for Occupational Therapy to assist in the practice of occupational therapy; and~~

~~2. Under the supervision of an occupational therapist;] or~~

(c) An unlicensed occupational therapy aide who:

1. Provides supportive services to occupational therapists and occupational therapy assistants; and

2. Is under the direct supervision of a licensed occupational therapist.

(5) Physical therapy services shall be provided by:

(a) A physical therapist ~~with a current license from the State Board of Physical Therapy;~~

(b) A physical therapist assistant with a current license from the State Board of Physical Therapy under the supervision of a ~~[licensed-]~~ physical therapist;

(c) An individual with a temporary permit to perform physical therapy in Kentucky pursuant to KRS 327.010(5); ~~[A physical therapist with a temporary permit issued by the~~

1 ~~State Board of Physical Therapy under the supervision of a licensed physical therapist;]~~

2 (d) A student of physical therapy under the supervision of a ~~[licensed]~~ physical the-
3 rapist; or

4 (e) A physical therapy aide under the direct on-site supervision of a:

5 1. ~~[Licensed]~~Physical therapist; or

6 2. Licensed physical therapist assistant in accordance with the provisions of 201

7 KAR 22:053.

8 (6) A mental health service shall be provided by:

9 (a) A licensed psychologist;

10 (b) A licensed psychological practitioner;

11 (c) A certified psychologist with autonomous functioning;

12 (d) A certified psychologist;

13 (e) A licensed psychological associate;

14 (f) A licensed clinical social worker;

15 (g) A licensed social worker;

16 (h) A certified social worker;

17 (i) An advanced registered nurse practitioner who has a specialty area in accordance
18 with the American Nurses' Association's Scope and Standards of Psychiatric Mental

19 Health Nursing Practice in accordance with 201 KAR 20:057;

20 (j) A licensed professional clinical counselor; or

21 (k) A licensed professional clinical counselor associate.

22 (7) An incidental interpreter service shall be provided by an interpreter licensed by
23 the Kentucky Board of Interpreters for the Deaf and Hard of Hearing pursuant to KRS

309.301.~~[Mental health services shall be provided by:~~

~~(a) An individual currently licensed by the Kentucky Board of Examiners of Psychology in accordance with KRS Chapter 319 as a:~~

~~1. Licensed psychologist;~~

~~2. Licensed psychological practitioner;~~

~~3. Certified psychologist with autonomous functioning;~~

~~4. Certified psychologist; or~~

~~5. Licensed psychological associate;~~

~~(b) A school psychologist currently certified by the Kentucky Education Professional Standards Board;~~

~~(c) A school social worker currently certified by the Kentucky Education Professional Standards Board;~~

~~(d) A licensed clinical social worker currently licensed by the Kentucky Board of Social Work;~~

~~(e) A licensed social worker currently licensed by the Kentucky Board of Social Work;~~

~~(f) A certified social worker currently licensed by the Kentucky Board of Social Work;~~

~~(g) A guidance counselor currently certified by the Kentucky Education Professional Standards Board;~~

~~(h) A psychometrist currently certified by the Kentucky Education Professional Standards Board;~~

~~(i) An advanced registered nurse practitioner who has a specialty area in accordance with the American Nurses' Association's Scope and Standards of Psychiatric Mental Health Nursing Practice in accordance with 201 KAR 20:057;~~

1 ~~(j) A licensed professional clinical counselor as defined in KRS Chapter 335; or~~

2 ~~(k) A licensed professional counselor associate as defined in KRS Chapter 335.~~

3 ~~[(7) In order to provide an incidental interpreter service, an interpreter shall be li-~~
4 ~~censed by the Kentucky Board of Interpreters for the Deaf and Hard of Hearing as re-~~
5 ~~quired by KRS 309.300 to 309.319.]~~

6 (8) Orientation and mobility services shall be provided by an orientation and mobility
7 specialist certified by the:

8 (a) Academy for Certification of Vision Rehabilitation and Education Professionals
9 (ACVREP); or

10 (b) National Blindness Professional Certification Board (NBPCB).

11 (9) Respiratory therapy services shall be provided by a respiratory care practition-
12 er.~~[practitioner certified by the Kentucky Board of Respiratory Care as required by KRS~~
13 ~~314A.010-314A.]~~

14 Section 5. Reimbursement. (1) Reimbursement for SBHS shall be provided in accor-
15 dance with the school-based health service reimbursement provisions established in
16 907 KAR 1:035~~[, Section 5].~~

17 (2) A school-based health services provider shall certify the expenditure of state or
18 local funds for school-based health services in accordance with 702 KAR 3:285.

19 Section 6. Individualized Education Program. An IEP shall:

20 (1) Be developed, reviewed and revised in accordance with:

21 (a) 707 KAR 1:320; and

22 (b) 34 CFR 300.324; and

23 (2) Not be considered authorized unless it has been approved by an IEP

1 team.~~[School-based health services providers shall certify expenditure of state or local~~
2 ~~funds to provide covered school-based health services to Medicaid-eligible children as~~
3 ~~specified in 702 KAR 3:285.]~~ (23 Ky.R. 1831; Am. 2530; 2752; eff. 12-18-96; 29 Ky.R.
4 2378; 2705; eff. 5-15-2003; 32 Ky.R. 1803; 2041; 2277; eff. 7-7-06.)

907 KAR 1:715

REVIEWED:

Date

Elizabeth A. Johnson, Commissioner
Department for Medicaid Services

APPROVED:

Date

Janie Miller, Secretary
Cabinet for Health and Family Services

A public hearing on this administrative regulation shall, if requested, be held on September 21, 2009 at 9:00 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky, 40621. Individuals interested in attending this hearing shall notify this agency in writing by September 14, 2009, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding this proposed administrative regulation until close of business September 30, 2009. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Jill Brown, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, KY 40601, (502) 564-7905, Fax: (502) 564-7573.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation #: 907 KAR 1:715

Cabinet for Health and Family Services

Department for Medicaid Services

Agency Contact: Lee Barnard (502) 564-9444 or Stuart Owen (502) 564-4321

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: This administrative regulation establishes school-based health service provisions.
 - (b) The necessity of this administrative regulation: This administrative regulation is necessary to establish school-based health service provisions in concert with 20 USC 33.
 - (c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing school-based health service provisions.
 - (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing school-based health service provisions.
- (2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
 - (a) How the amendment will change this existing administrative regulation: The amendment authorizes school-based health services to be performed not only by a licensed practical nurse (LPN) or registered nurse (RN) with a Kentucky Board of Nursing-issued license but by an out-of-state LPN or RN authorized to provide nursing services to Kentucky residents in accordance with the Nurse Licensure Compact enacted by KRS 314.470 in 2007. Additionally, the amendment deletes collateral services from being reimbursable as mandated by the Centers for Medicare and Medicaid Services (CMS) via an audit; and contains language and formatting revisions to comply with KRS 13A language and formatting requirements.
 - (b) The necessity of the amendment to this administrative regulation: The amendment is necessary to render this administrative regulation compliant with the Nurse Licensure Compact enacted by KRS 314.470 and to comply with a CMS mandate.
 - (c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to KRS 314.470 by authorizing out-of-state LPN's and RN's to provide nursing services to Kentucky residents. Deleting collateral services from being a Medicaid-reimbursable service complies with the Centers for Medicare and Medicaid Services (CMS) "Review of Kentucky's Medicaid Covered Services Provided in Schools and Medicaid School-Based Administrative Claiming Program" issued January 25, 2008.
 - (d) How the amendment will assist in the effective administration of the statutes: The

amendment will assist in the effective administration of KRS 314.470 by authorizing out-of-state LPN's and RN's to provide nursing services to Kentucky residents. Deleting collateral services from being a Medicaid-reimbursable service complies with the Centers for Medicare and Medicaid Services (CMS) "Review of Kentucky's Medicaid Covered Services Provided in Schools and Medicaid School-Based Administrative Claiming Program" issued January 25, 2008.

- (3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Any out-of-state LPN or RN who is authorized to perform nursing services to Kentucky residents in accordance with KRS 314.470 is potentially affected by the amendment as well as any school-based health service provider who previously provided collateral services as they are no longer Medicaid-reimbursable. Currently, border states Tennessee and Virginia participate in the Nurse Licensure Compact and Missouri recently passed legislation to join the Compact.
- (4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
 - (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. An out-of-state LPN or RN who is authorized to provide nursing services to Kentucky residents pursuant to KRS 314.470 would automatically be authorized to provide such services. A school-based health service provider who previously provided collateral services will need to cease providing such service if they expect to be reimbursed by the Medicaid program for such service.
 - (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). This amendment imposes no cost on the regulated entities or individuals unless a school-based health service provider provides collateral services and expects, wrongly so, to be reimbursed by the Medicaid program for the service.
 - (c) As a result of compliance, what benefits will accrue to the entities identified in question (3). Out-of-state LPN's or RN's who are authorized to provide nursing services to Kentucky Medicaid recipients pursuant to KRS 314.470 will benefit from this amendment by being able to serve Kentucky Medicaid recipients and be reimbursed for such services by the Department for Medicaid Services (DMS).
- (5) Provide an estimate of how much it will cost to implement this administrative regulation:
 - (a) Initially: The number of out-of-state LPN's or RN's who may choose to serve Kentucky Medicaid recipients and, thus, be reimbursed by DMS as a result of this amendment is indeterminable. Currently, border states Tennessee and Virginia participate in the Nurse Licensure Compact and Missouri recently passed legislation to join the Compact.

Regarding collateral services, which are no longer reimbursable per CMS, DMS spent \$295,361.01 in state fiscal year 2007 on collateral services and \$292,389.18 on collateral services in state fiscal year 2008. Thus, DMS will not experience such expenditures in future fiscal years.

- (b) On a continuing basis: The number of out-of-state LPN's or RN's who may choose to serve Kentucky Medicaid recipients and, thus, be reimbursed by DMS as a result of this amendment is indeterminable. Currently, border states Tennessee and Virginia participate in the Nurse Licensure Compact and Missouri recently passed legislation to join the Compact.

Regarding collateral services, which are no longer reimbursable per CMS, DMS spent \$295,361.01 in state fiscal year 2007 on collateral services and \$292,389.18 on collateral services in state fiscal year 2008. Thus, DMS will not experience such expenditures in future fiscal years.

- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under the Social Security Act, Title XIX and matching funds of general fund appropriations.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Neither an increase in fees nor funding is necessary to implement the amendment to the administrative regulation.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor directly or indirectly increases any fees.
- (9) Tiering: Is tiering applied? (Explain why tiering was or was not used). Tiering was not applied in this administrative regulation because it is applicable equally to all individuals or entities regulated by it.

FEDERAL MANDATE ANALYSIS COMPARISON

Regulation Number: 907 KAR 1:715

Agency Contact: Lee Barnard (502) 564-9444 or Stuart Owen (502) 564-4321

1. Federal statute or regulation constituting the federal mandate. The Centers for Medicare and Medicaid Services (CMS) issued a "Review of Kentucky's Medicaid Covered Services Provided in Schools and Medicaid School-Based Administrative Claiming Program" on January 25, 2008 requiring the Department for Medicaid Services to immediately cease claiming federal financial participation (federal funding) for collateral services.
2. State compliance standards. KRS 314.470 authorizes out-of-state LPN's or RN's to serve Kentucky residents.
3. Minimum or uniform standards contained in the federal mandate. The Centers for Medicare and Medicaid Services (CMS) issued a "Review of Kentucky's Medicaid Covered Services Provided in Schools and Medicaid School-Based Administrative Claiming Program" on January 25, 2008 requiring the Department for Medicaid Services to immediately cease claiming federal financial participation (federal funding) for collateral services.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation does not impose stricter than federal requirements.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation does not impose stricter than federal requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Reg NO: 907 KAR 1:715

Contact Person: Lee Barnard (502) 564-9444 or Stuart Owen (502) 564-4321

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments or school districts)?

Yes X No

If yes, complete 2-4.

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Medicaid Services will be impacted by the amendment.

3. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.470.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

- (a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? DMS anticipates no increase in revenue as a result of this administrative regulation.

- (b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? DMS anticipates no increase in revenue as a result of this administrative regulation.

- (c) How much will it cost to administer this program for the first year? The number of out-of-state LPN's or RN's who may choose to serve Kentucky Medicaid recipients and, thus, be reimbursed by DMS as a result of this amendment is indeterminable. Currently, border states Tennessee and Virginia participate in the Nurse Licensure Compact and Missouri recently passed legislation to join the Compact.

Regarding collateral services, which are no longer reimbursable per CMS, DMS spent \$295,361.01 in state fiscal year 2007 on collateral services and \$292,389.18 on collateral services in state fiscal year 2008. Thus, DMS will not experience such expenditures in future fiscal years.

- (d) How much will it cost to administer this program for subsequent years? The number

of out-of-state LPN's or RN's who may choose to serve Kentucky Medicaid recipients and, thus, be reimbursed by DMS as a result of this amendment is indeterminable. Currently, border states Tennessee and Virginia participate in the Nurse Licensure Compact and Missouri recently passed legislation to join the Compact.

Regarding collateral services, which are no longer reimbursable per CMS, DMS spent \$295,361.01 in state fiscal year 2007 on collateral services and \$292,389.18 on collateral services in state fiscal year 2008. Thus, DMS will not experience such expenditures in future fiscal years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): .

Expenditures (+/-):